

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Carla S. Ferguson,

Case No. 3:08 CV 1904

Plaintiff,

MEMORANDUM OPINION
AND ORDER

-VS-

JUDGE JACK ZOUHARY

Commissioner of Social Security,

Defendant.

Plaintiff Carla Ferguson filed a Complaint (Doc. No. 1) against the Commissioner of Social Security seeking judicial review pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3) of the Commissioner's decision to deny disability insurance benefits (DIB) and supplemental security income benefits (SSI). This case was referred to United States Magistrate Judge Vernelis Armstrong for a Report and Recommendation (R&R) in accordance with Local Rule 72.2(b)(2).

Following briefs on the merits from both parties, the Magistrate filed the R&R (Doc. No. 20) recommending the Court remand this case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g)¹ to assess the medically documented evidence of obesity consistent with SSR 02-1p, the cumulative effects of obesity on disturbances to Plaintiff's respiratory system, and its effect on residual functional capacity. Neither party objected to the R&R.

1

Sentence four of Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), states: "The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing."

Upon review, this Court finds the R&R to be well-founded and supported by the record. The Court therefore adopts the R&R in its entirety. Accordingly, this case is remanded to the Commissioner for further proceedings as described in the R&R.

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

August 14, 2009